

EXHIBIT A



Diaz v. Tesla

Presentation of Amy Oppenheimer



Standard of Care to Prevent Racial Harassment

- 1) Clear strong policies distributed often and rigorously enforced;
- 2) Training all workers, with additional training for supervisors;
- 3) Consistent message that racial harassment will not be tolerated;
- 4) Monitoring work environment to assure compliance;
- 5) Responding immediately to racial harassment;
- 6) Removing anything offensive and reinforcing the policy by letting workforce know what happened and why it is not tolerated;
- 7) Adequately investigating complaints or any notice of racial harassment;
- 8) Progressive and meaningful discipline towards anyone who has engaged in harassment or threats;
- 9) Following up/monitoring the workplace to make sure the activity has not continued.



Standard of Care: How did Tesla do?

- 1) Polices – yes; enforced – no (evidence of use of N-word ignored);
- 2) Training – no (evidence many employees and supervisors not trained);
- 3) Consistent message – no (workforce not uniformly informed);
- 4) Monitoring work environment – no (no evidence of follow up and monitoring);
- 5) Responding immediately – sometimes (complaints selectively investigated);
- 6) Removing anything offensive and reinforcing the policy – no (no evidence workforce reminded of policy and consequences);
- 7) Adequately investigating complaints – no (discussed next);
- 8) Progressive and meaningful discipline – no (discussed next);
- 9) Following up/monitoring the workplace – no (discussed next).



Investigations: 4 Areas to Review

- 1) Was it conducted by an experienced/trained and impartial person?
- 2) Was it reasonably thorough and documented?
- 3) Were the findings consistent with the evidence?
- 4) Was there appropriate remedial and follow-up action?



Complaint #1

July 31, 2015 complaint to Kawasaki re Timbreza making racist comments (includes N-word)

- 1) No experienced and impartial investigator involved.
- 2) It was neither thorough or documented. (There was no documentation of witnesses being spoken to and what they said. Past issues that Diaz brought up were not looked into.)
- 3) There were no findings.
- 4) There was inadequate remedial action and no apparent follow up. (Timbreza given verbal warning for “excessive joking”, not for racial harassment, trivializing racism. There was no evidence of any follow up.)



Complaint #2

October 2015 complaint to Romero re Martinez making racist threats in an elevator – There is a witness - Diaz is fearful – asks them to check surveillance

- 1) No investigation – although initially going to do investigation, then decided Wayne Jackson should just speak to three of them.
- 2) Investigation neither thorough or documented. (Had informal discussions on the phone. There was no attempt to check surveillance.)
- 3) No findings. (Credibility of parties should have been weighed and findings made.)
- 4) Inadequate remedial action and no apparent follow up. (Verbal warning given to BOTH of them for not getting along, complaint ignored, not written and no evidence of follow up.)



Complaint #3

January 2016 complaint to Romero about Martinez making a racist effigy

- 1) Difficult to access experience of investigator.
- 2) It was neither thorough or documented. (Phone interview of complainant; respondent answers written questions and states Diaz accepted his apology – not confirmed with Diaz; no documentation; no report; **history not investigated**; fears regarding retaliation and safety not investigated.)
- 3) There were no findings.
- 4) There was inadequate remedial action and no apparent follow up. (Both continued to work at plant. No evidence of further follow up.)



Other Concerns About Prevention at Tesla

- 1) Quintero doesn't know the policy applies to contractors.
- 2) Supervisor Kawasaki said he did not receive training.
- 3) HR Marconi was not trained about use of the N-word.
- 4) Complaints of N-word have been substantiated in the Fremont plant.



Conclusions

- 1) Despite having policies, Tesla employees were not adequately trained on the policies.
- 2) Tesla was not responding to known racial harassment.
- 3) Investigations were not being conducted by trained/experienced investigators, were not thorough and were not coming to findings.
- 4) Remedial action was not sufficient and there was a lack of follow up so conduct continued.